

REMARKS

Applicants believe that the amendments to the claims as well as the comments that follow will convince the Examiner that the rejections provided in the April 19, 2007 Office Action have been overcome and should be withdrawn. Applicants have amended claims 1, 13, 20, 32, 37, 54, 69, 79, 84 and 94. The amendments are in no way related to patentability. Applicants submit that each of these changes are supported by the specification; no new matter has been added. Claims 1-98 remain for consideration.

I. THE EXAMINER'S REJECTIONS

A. 35 U.S.C. § 112

The Examiner rejected claims 13, 32, 79 and 94 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The Examiner argued that:

The claims are rejected because it is not clear how compositions contain a co-binder when it has not been set forth that a binder is present. Clarification and correction are required.

B. 35 U.S.C. § 102

The Examiner rejected claims 1, 3-8 and 10-12 under 35 U.S.C. § 102(b) as being anticipated by Tao, U.S. Patent Number 6,497,735 (hereinafter "Tao"). In the opinion of the Examiner:

Tao teaches a vegetable lipid composition comprising 51-100% by weight of a triglyceride or a free fatty acid/triglyceride mixture and up to 49% by wt of a petroleum wax (see abstract; col. 1, lines 54-65). The petroleum wax having a melting point of 50-85°C may be paraffin or microcrystalline (see col. 2, lines 2-4; col. 4, lines 36-48). The triglycerides may be fully hydrogenated and the fatty acids are preferably saturated (see col. 3, lines 5-7). The vegetable lipid-based compositions begin to soften around 59°C (see col. 5, lines 31-41). Tao teaches that the composition may contain UV absorbers, antioxidants, odorants and colorants (see col. 5, lines 4-14).

C. 35 U.S.C. § 103

The Examiner rejected claims 2 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Tao. In the opinion of the Examiner:

Tao fails to teach the iodine number and color speckles. However, it would have been obvious to one of ordinary skill in the art to optimize the triglyceride/fatty acid to obtain the desired iodine number in order to produce a solid candle. With respect to the color speckles, Tao teaches that colorants are used in the invention.

To select color speckles as the colorant is merely a design choice and does not impart patentability to the claims.

The Examiner also rejected claims 9, 13, 37-47 and 53 under 35 U.S.C. § 103(a) as being unpatentable over Tao in view of Anderson, U.S. Patent Number 6,599,334 (hereinafter "Anderson"). In the opinion of the Examiner:

Tao fails to teach the use of a binder. However, Anderson teaches this difference in a soybean wax composition. It would have been obvious to one of ordinary skill in the art to employ the synthetic waxes of Anderson because he teaches that the waxes bind and disperse the fragrance through the candle composition, hardens the candle and reduce the formation of air bubbles (see col. 6, lines 31-35).

The Examiner also rejected claims 14-18, 20-37, 69-74, 76-78, 84-89 and 91-93 under 35 U.S.C. § 103(a) as being unpatentable over Tao in view of Marcus, U.S. Patent Number 4,568,270 (hereinafter "Marcus"). In the opinion of the Examiner:

Tao fails to teach that the candle of his invention is encased with a layer of petroleum wax. However, Marcus teaches this difference. Marcus teaches a candle comprising an outer shell wherein the shell is formed of paraffin wax (see abstract) ... Marcus teaches that the shell may be formed through dripping or molding the shell around the core (see col. 4, lines 51-56). It would have been obvious to one of ordinary skill in the art to encase

the claimed candle in petroleum wax because Marcus teaches that encasing a candle provides structural support for the candle. With respect to claims 21, 36, 72 and 87, it would have been obvious to one of ordinary skill in the art to optimize the triglyceride/fatty acid to obtain the desired iodine number in order to produce a solid candle.

The Examiner also rejected claims 28, 32, 48-52, 54-68, 75, 79-83, 90 and 94-98 under 35 U.S.C. § 103(a) as being unpatentable over Tao, Marcus and Anderson. In the opinion of the Examiner:

Tao fails to teach that the candle of his invention is encased with a layer of petroleum wax. However, Marcus teaches this difference. Marcus teaches a candle comprising an outer shell wherein the shell is formed of paraffin wax (see abstract) ... Marcus teaches that the shell may be formed through dripping or molding the shell around the core (see col. 4 lines 51-56). It would have been obvious to one of ordinary skill in the art to encase the claimed candle in petroleum wax because Marcus teaches that encasing a candle provides structural support for the candle. Tao fails to teach the use of a binder. However, Anderson teaches this difference in a soybean wax composition. It would have been obvious to one of ordinary skill in the art to employ the synthetic waxes of Anderson because he teaches that the waxes bind and disperse the fragrance through the candle composition, hardens the candle and reduce the formation of air bubbles (see col. 6, lines 31-35). With respect to claim 55, it would have been obvious to one of ordinary skill

in the art to optimize the triglyceride/fatty acid to obtain the desired iodine number in order to produce a solid candle.

II. THE EXAMINER'S REJECTIONS SHOULD BE WITHDRAWN

A. 35 U.S.C. § 112

The Examiner rejected claims 13, 32, 79 and 94 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants have amended claims 13, 32, 79 and 94 in accordance with the Examiner's comments. Therefore, Applicants respectfully request that the 35 U.S.C. § 112 rejection of claims 13, 32, 79 and 94 be withdrawn.

B. 35 U.S.C. § 102

The Examiner rejected claims 1, 3-8 and 10-12 under U.S.C. § 102(b) as being anticipated by Tao. Applicants respectfully disagree and submit that Tao fails to teach all of the claim elements of the present invention.

It should be appreciated by one of ordinary skill in the art that the present invention as described in currently amended independent claim 1, provides "[a] vegetable wax-based composition suitable for manufacturing a candle by compression, comprising: a vegetable-based

wax; a petroleum wax; and a fragrance, wherein said composition comprises a greater amount of said vegetable-based wax than said petroleum wax, and wherein said fragrance is encapsulated with said petroleum wax."

As disclosed in currently amended independent claim 1 of the application, the present invention is not only comprised of primarily a vegetable wax-based composition suitable for manufacturing a candle by compression, but it also is comprised of a petroleum wax, which encapsulates the fragrance within the candle. Therefore, the present invention discloses a compressed candle product that incorporates a high fragrance load comprised of a combination of vegetable-based wax composition and a paraffin wax and provides exceptional burning behavior. This is not taught or disclosed by Tao.

Tao merely discloses, "[a] candle comprising a wick and a combustible candle composition comprising a vegetable based composition and at least 3% by weight of at least one petroleum wax, wherein the vegetable based composition comprises 5%-95% by weight free fatty acid and 5%-95% by weight triglycerides." (Tao, Col. 7, Lines 57-61). Furthermore, the object of Tao's invention "is to provide a vegetable lipid-based composition, and candles produced with such compositions that, when burned, minimizes the

risk to human health, utilizes renewable resources, minimizes or eliminates the use of petrochemical-derived products and has a naturally pleasing odor." (Tao, Col. 2, Lines 21-26). As seen, Tao's invention fails to teach a vegetable wax-based composition suitable for manufacturing a candle by compression that contains a high fragrance load, whilst being able to provide exceptional burning behavior. Accordingly, Tao does not teach all elements of claim 1. Therefore, claim 1 is not anticipated by Tao and as a result, allowance of claim 1 is requested. Claims 3-8 and 10-12 are dependent upon allowable independent claim 1 and are therefore also allowable. Therefore, Applicants respectfully request that the 35 U.S.C. § 102(b) rejection of claims 1, 3-8 and 10-12 be withdrawn.

C. 35 U.S.C. § 103

The Examiner rejected claims 2 and 19 under 35 U.S.C. § 103(a) as being unpatentable over Tao. Applicants respectfully disagree and submit that Tao fails to teach all of the claim elements of the present invention.

As previously stated in currently amended independent claim 1 of the application, the present invention is not only comprised of primarily a vegetable wax-based composition suitable for manufacturing a candle by compression, but it also is comprised of a petroleum wax,

which encapsulates the fragrance within the candle. Therefore, the present invention discloses a compressed candle product that incorporates a high fragrance load comprised of a combination of vegetable-based wax composition and a paraffin wax and provides exceptional burning behavior.

As seen by examples cited above, Tao fails to teach or disclose a vegetable wax-based composition suitable for manufacturing a candle by compression that contains a high fragrance load, whilst being able to provide exceptional burning behavior. Accordingly, Tao does not teach all elements of claim 1. Therefore, claim 1 is not obvious over Tao and as a result, claim 1 is in condition for allowance. Dependent claims 2 and 19 are dependent upon allowable independent claim 1 and thus include the allowable subject matter of claim 1; consequently, they too are in condition for allowance. Therefore, the Examiner is respectfully requested to withdraw the 35 U.S.C. § 103(a) rejection of claims 2 and 19.

The Examiner rejected claims 9, 13, 37-47 and 53 under 35 U.S.C. § 103(a) as being unpatentable over Tao in view of Anderson. Applicants respectfully disagree and submit that no combination of the cited references teach or suggest all of the claim elements of the present invention.

The Examiner stated, "Tao fails to teach the use of a binder. However, Anderson teaches this difference in a soybean wax composition." (Office Action dated April 19, 2007, p. 4).

Claims 1 and 37 of the application have been amended to disclose a compressed vegetable wax-based candle comprised of a fragrance that is encapsulated with petroleum wax, thus yielding a high fragrance load disposed within the candle.

As previously stated, Tao fails to teach a vegetable wax-based composition suitable for manufacturing a candle by compression that contains a high fragrance load, whilst being able to provide exceptional burning behavior.

Anderson merely discloses a candle wax composition consisting primarily of soybean oil. Furthermore, Anderson discloses the use of a synthetic wax, which she claims, "may help to increase the opacity of the candle," and "bind and disperse fragrance oils throughout the candle composition." (Anderson, Col. 6, Lines 32-34). As seen, Anderson fails to teach a vegetable wax-based composition suitable for manufacturing a candle by compression that contains a high fragrance load produced by encapsulating the fragrance with petroleum wax, while being able to provide exceptional burning behavior.

Consequently, the Applicants respectfully submit that neither Tao nor Anderson, alone or in combination, disclose a compressed candle wax composition that contains a high fragrance load produced by encapsulating the fragrance with petroleum wax. Thus, the Applicants' invention as defined by amended claims 1 and 37 is not obvious over Tao or Anderson, either alone or in combination and, therefore claims 1 and 37 are in condition for allowance. Thus, the Examiner is respectfully requested to withdraw the 35 U.S.C. § 103(a) rejection of claim 37. Dependent claims 9, 13, 38-47 and 53 are dependent upon allowable independent claims 1 and 37 and thus include the allowable subject matter of claims 1 and 37; consequently, they too are in condition for allowance. Therefore, the Examiner is respectfully requested to withdraw the 35 U.S.C. § 103(a) rejection of claims 9, 13, 38-47 and 53.

The Examiner rejected claims 14-18, 20-37, 69-74, 76-78, 84-89 and 91-93 under 35 U.S.C. § 103(a) as being unpatentable over Tao in view of Marcus. Applicants respectfully disagree and submit that no combination of the cited references teach or suggest all of the claim elements of the present invention.

The Examiner stated, "Tao fails to teach that the candle of his invention is encased with a layer of

petroleum wax. However, Marcus teaches this difference.”
(Office Action dated April 19, 2007, p. 5).

Claims 1, 20, and 37 of the application have been amended to disclose a compressed vegetable wax-based candle comprised of a fragrance that is encapsulated with petroleum wax, thus yielding a high fragrance load disposed within the candle. Claims 69 and 84 of the application have been amended to disclose a combustible candle composition comprised of a fragrance encapsulated with petroleum wax, thus yielding a high fragrance load disposed within the candle. Additionally, claims 69 and 84 of the application have been amended to disclose an encasing layer that is operable to provide a complete burn of the candle. Therefore, the encasing layer taught by the Applicants not only provides structural support but it also provides a candle with a high fragrance load and exceptional burning behavior that will not leak or gutter over a prolonged burn.

As previously stated, Tao fails to teach a vegetable wax-based composition suitable for manufacturing a candle by compression that contains a high fragrance load, while being able to provide exceptional burning behavior.

Marcus merely discloses a candle comprised of “an outer shell, an inner core and a wick.” (Marcus, Abstract,

Lines 1-2). The shell constitutes a container and provides structural support for the core. However, the shell that Marcus teaches only provides structural support for the candle. The fragrance oil taught by Marcus "is always incorporated in the core." (Marcus, Col. 4, Lines 23-24). As seen, Marcus does not disclose a candle that contains an outer shell that is capable of providing a high fragrance load as disclosed by the Applicants. Additionally, Marcus fails to teach an outer shell that improves the burning potential of the candle as disclosed by the Applicants. As previously stated, the Applicants' provide an encased candle, which offers both a high fragrance load and exceptional burning behavior. "Specifically, the candles burn cleanly, and show no leaking or guttering over a prolonged burn...In addition, close to 90% consumption of the candle body is achieved." Accordingly, Marcus fails to teach a vegetable wax-based composition suitable for manufacturing a candle by compression that contains a high fragrance load produced by encapsulating the fragrance with petroleum wax, while being able to provide exceptional burning behavior.

Consequently, the Applicants respectfully submit that neither Tao nor Marcus, alone or in combination, disclose a compressed candle wax composition that contains a high

fragrance load produced by encapsulating the fragrance with petroleum wax. Thus, the Applicants' invention as defined by amended claims 1, 20, 37, 69, and 84 is not obvious over Tao or Marcus, either alone or in combination and, therefore claims 1, 20, 37, 69, and 84 are in condition for allowance. Thus, the Examiner is respectfully requested to withdraw the 35 U.S.C. § 103(a) rejection of claims 20, 37, 69 and 84. Dependent claims 14-18, 21-36, 70-74, 76-78, 85-89 and 91-93 are dependent upon allowable independent claims 1, 20, 37, 69 and 84 and thus include the allowable subject matter of claims 1, 20, 37, 69 and 84; consequently, they too are in condition for allowance. Therefore, the Examiner is respectfully requested to withdraw the 35 U.S.C. § 103(a) rejection of claims 14-18, 21-36, 70-74, 76-78, 85-89 and 91-93.

The Examiner rejected claims 28, 32, 48-52, 54-68, 75, 79-83, 90 and 94-98 under 35 U.S.C. § 103(a) as being unpatentable over Tao, Marcus and Anderson. Applicants respectfully disagree and submit that no combination of the cited references teach or suggest all of the claim elements of the present invention.

The Examiner stated, "Tao fails to teach that the candle of his invention is encased with a layer of petroleum wax. However, Marcus teaches this difference."

(Office Action dated April 19, 2007, p. 5). Additionally, the Examiner stated, "Tao fails to teach the use of a binder. However, Anderson teaches this difference in a soybean wax composition." (Office Action dated April 19, 2007, p. 6).

As stated above, claims 20 and 37 of the application have been amended to disclose a compressed vegetable wax-based candle comprised of a fragrance that is encapsulated with petroleum wax, thus yielding a high fragrance load disposed within the candle. Claims 69 and 84 of the application have been amended to disclose a combustible candle composition comprised of a fragrance encapsulated with petroleum wax, thus yielding a high fragrance load disposed within the candle. Additionally, claims 69 and 84 of the application have been amended to disclose an encasing layer that is operable to provide a complete burn of the candle. Lastly, claim 54 of the application has been amended to disclose a compressed vegetable wax-based candle comprised of a fragrance that is encapsulated with petroleum wax, thus yielding a high fragrance load disposed within the candle. Furthermore, claim 54 of the application was amended to disclose an encasing layer that is operable to provide a complete burn of the candle. Therefore, as previously stated, the encasing layer taught

by the Applicants not only provides structural support but it also provides a candle with a high fragrance load and exceptional burning behavior that will not leak or gutter over a prolonged burn.

As previously stated, Tao fails to teach a vegetable wax-based composition suitable for manufacturing a candle by compression that contains a high fragrance load, whilst being able to provide exceptional burning behavior. Furthermore, as argued above, Marcus does not disclose a candle that contains an outer shell that is capable of providing a high fragrance load as disclosed by the Applicants. Additionally, Marcus fails to teach an outer shell that improves the burning potential of the candle as disclosed by the Applicants. Therefore, Marcus fails to teach a vegetable wax-based composition suitable for manufacturing a candle by compression that contains a high fragrance load produced by encapsulating the fragrance with petroleum wax, while being able to provide exceptional burning behavior. Lastly, as argued above, Anderson teaches the use of synthetic wax to bind and disperse the fragrance oils throughout the candle composition. Accordingly, Anderson fails to teach a vegetable wax-based composition suitable for manufacturing a candle by compression that contains a high fragrance load produced by

encapsulating the fragrance with petroleum wax, while being able to provide exceptional burning behavior.

Consequently, the Applicants respectfully submit that Tao, Marcus or Anderson alone or in combination, do not disclose a compressed candle wax composition that contains a high fragrance load produced by encapsulating the fragrance with petroleum wax. Thus, the Applicants' invention as defined by amended claims 20, 37, 54, 69 and 84 is not obvious over Tao, Marcus or Anderson, either alone or in combination and, therefore claims 20, 37, 54, 69 and 84 are in condition for allowance. Thus, the Examiner is respectfully requested to withdraw the 35 U.S.C. § 103(a) rejection of claim 54. Dependent claims 28, 32, 48-52, 54-68, 75, 79-83, 90 and 94-98 are dependent upon allowable independent claims 20, 37, 54, 69 and 84 and thus include the allowable subject matter of claims 20, 37, 54, 69 and 84; consequently, they too are in condition for allowance. Therefore, the Examiner is respectfully requested to withdraw the 35 U.S.C. § 103(a) rejection of claims 28, 32, 48-52, 54-68, 75, 79-83, 90 and 94-98.

III. CONCLUSION

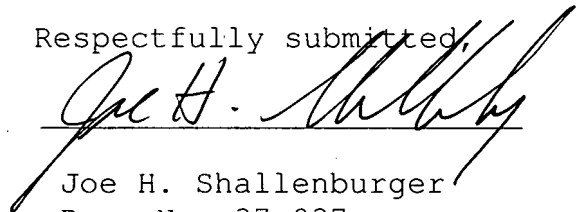
Applicants submit that the specification, drawings, and all pending claims represent a patentable contribution to the art and are in condition for allowance. No new matter has been added. The claims have been amended merely to clarify the novel features of the current invention and are in no way related to patentability. Early and favorable action is accordingly solicited.

Should any changes to the claims and/or specification be deemed necessary to place the application in condition for allowance, the Examiner is respectfully requested to contact the undersigned to discuss the same. This Amendment is believed to be timely filed. If a petition for extension of time and/or any other fees are required, the Patent and Trademark office is specifically authorized to charge such fee to Deposit Account No. 23-0420 in the name of Ward & Olivo.

Date: _____

7/19/07

Respectfully submitted,



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